
CONFERENCE REPORT: INVESTMENT SUPPORT PROGRAMME FOR THE LEAST DEVELOPED COUNTRIES

HIGH-LEVEL DIALOGUE ON LEGAL AND EXPERT ASSISTANCE TO MAKE
FOREIGN INVESTMENT WORK BETTER FOR THE SUSTAINABLE
DEVELOPMENT OF THE LEAST DEVELOPED COUNTRIES



September 22, 2017 - Conference Room 2, United Nations, New York

A High-Level Event held during the ministerial week of the 72nd session of the United Nations General Assembly.

Organized by the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS) together with the International Development Law Organization (IDLO).

INDEX

Overview.....	2
Launch event.....	3
Agenda.....	9

For additional information about the event or the Investment Support Programme, please visit
<http://www.idlo.int/investment-support-programme-least-developed-countries>

OVERVIEW

The 47 least developed countries (LDCs) are the world's poorest countries and typically they, and much of their private sector, do not have the human and financial resources to participate effectively in investment-related negotiations and secure the most favourable results for their economies and people.

Foreign direct investment (FDI) may generate income, jobs and technological upgrading and contribute to the sustainable development of LDCs. But, unbalanced investment projects, contracts and agreements may lead to serious implementation problems and disputes that often end up in international arbitration, disrupting the relationship between the investment partners. This entails considerable costs for the parties involved, be they governments, domestic firms or foreign investors. Well-negotiated and fair investment projects, contracts and agreements are in the long-term interest of all partners.

ABOUT THE INVESTMENT SUPPORT PROGRAMME

The Investment Support Programme for the LDCs (ISP/LDCs) aims to provide on-demand legal and professional assistance to governments of the LDCs and under-resourced LDC firms to help them in investment-related negotiations and dispute settlement. The program's objective is to establish an international scheme for legal aid and expert assistance.

More specifically, the program will provide negotiation and dispute-settlement advisory and representation services to requesting LDC governments and eligible private sector entities through arranging for multi-disciplinary teams to assist them in preparing for, and conducting, negotiations and participating in arbitral proceedings or alternative dispute resolution methods. The program will also arrange complementary training and capacity building activities on demand.

The ISP/LDCs will harness the services of lawyers and other experts (e.g. in tax management, tendering and procurement, accounting and financial analysis, environmental management) who are ready to provide support to the LDCs on a "pro-bono" or reduced-fee basis, including in the context of corporate social responsibility initiatives of the organizations to which they are affiliated, thus catalyzing the readiness of professionals worldwide to contribute their expertise to

the sustainable development of the poorest members of the international community.

This program, designed thanks to a grant from the Government of Italy, responds to the need to help LDCs increase FDI, identified as a priority in the United Nations' Programme of Action for the LDCs for the Decade 2011-2020 and in the 2015 Addis Ababa Action Agenda. The instrumental role of FDI for the realization of the Sustainable Development Goals, and the need to encourage it, is specifically recognized in goal 10/target 10.b.

IMPLEMENTING PARTNERS

The program will be managed by the International Development Law Organization (IDLO), in light of its treaty based mandate and experience in the areas covered by the program, and count on the collaboration of the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLS). The program will have a light institutional structure and small staff. IDLO will establish a roster of individual experts as well as partnerships with law firms, professional associations, consulting firms, universities, research centers and non-governmental organizations willing to collaborate with the program. IDLO will promote complementarity with existing initiatives that provide assistance to the LDCs in areas covered by the program so as to avoid any duplication of efforts.

ABOUT THE LEAST DEVELOPED COUNTRIES

The following make up the group of LDCs: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Dem. Rep. of the Congo, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao People's Dem. Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sudan, Timor-Leste, Togo, Tuvalu, Uganda, United Rep. of Tanzania, Vanuatu, Yemen and Zambia.

LAUNCH EVENT

The program was presented at the United Nations at a special event held on September 22, 2017 during the week of the Heads of State / Government “General Debate” at the United Nations General Assembly. The event was co-chaired by the High Representative for the LDCs, Under Secretary General Fekitamoeloa Katoa ‘Utoikamanu and the Director-General of IDLO, Irene Khan, who also moderated the interactive debate during the opening high level segment of the event. Subsequent expert panel discussions were moderated by Hassan Cisse, a member of IDLO’s Board of Advisers.

The event featured a keynote by the Vice-President of the International Court of Justice Abdulqawi Ahmed Yusuf and addresses by the Minister of Trade, Regional Integration and Employment of the Republic of the Gambia and the Minister of Planning, Investment and Economic Development of Somalia. It was attended by over 200 participants that included representatives of the 47 LDCs from both capital and New York missions, LDCs’ development partners, the legal community, international organizations, academia and civil society.

Opening the event, the High Representative for the LDCs highlighted the “capacity asymmetry” that currently prevails between host LDC countries and investors in contract negotiations; outlined the main features of the initiative; and presented IDLO as uniquely well placed to undertake responsibility for the new program.

Her statement was followed by a keynote address by Judge Yusuf who illustrated the challenges faced by LDCs in the negotiation and conclusion of investment agreements and in the settlement of disputes, particularly through arbitral tribunals; and, welcoming the ISP initiative, stressed the importance of a concerted effort to build and sustain national capacities in collaboration with existing regional training facilities.

Judge Yusuf’s address set the tone for the ensuing discussion with three themes especially resonating:

- › A confirmation of the strong interest and support that the program can count on from both the LDCs and its development partners;
- › The need to ensure that a concern for long-term capacity building pervades the conduct of the advisory services to be extended under the ISP and all aspects of the program; and
- › The imperative to pursue the program in the context of the broader challenges facing the current system of international investment agreements.

The Director-General for International Development of the European Commission announced the decision to set aside

an initial contribution of 1 million euro in support of the ISP; called on other donors to join the EU in supporting the program financially; and placed EU support in the context of European policies and commitments, such as the new EU External Investment Fund, geared to the achievement of the goals of Agenda 2030, and of the EU commitment to keep the needs of the LDCs at the center of EU’s development policies and help bring private investment to bear where it is most needed.

These sentiments were echoed by the Representative of Italy who stressed the key role that private sector investments play as sources of financing of sustainable development; recalled how good and fair regulations and contracts are to the advantage of all and contribute to upholding the rule of law; and reiterated that his Government will continue to support the program and looked forward to the support of other donors, legal scholars and other experts working together to make the program a success.

Ministers from Somalia and the Republic of Gambia expressed strong interest in availing themselves of ISP services; and highlighted the timeliness of the initiative in relation to the development and investment priorities currently being pursued by their respective governments. The Representatives of Bangladesh and Eritrea similarly illustrated the needs that the program is intended to serve. The Representative of Cambodia, like the Ministers of Somalia and Gambia, indicated his government’s intention to call in ISP’s services.

Intervening in the debate, the Representative of UNCTAD stressed the “important gap” that ISP is being called upon to fill and the “large demand” that exists for its services, and placed UNCTAD’s offer of cooperation with the program in the context of current efforts being supported by UNCTAD to promote reforms in the international investment regime and to build capacities in developing countries especially in the LDCs to enable it to serve effectively sustainable development objectives.

The intention to support and cooperate with the Program was also highlighted on behalf of the Permanent Court of Arbitration and the International Chamber of Commerce.

Summing up the debate, the Director-General of IDLO, Irene Khan, recalled that her organization was born out of the realization of the capacity gap in developing countries on legal issues and of the importance of investing in law in order to promote development – a realization now codified in terms of policy in Goal 16 of the 2030 Agenda for Sustainable Development. Working on the ground in a number of LDCs around the world, she said, IDLO has witnessed the imbalance between international investors

on the one hand, and governments or private sector entities in those countries on the other: “Whether it is in the context of the extracting industry in Sub-Saharan Africa, or in relation to arbitral proceedings for example in Asia, we have seen a limited number of government lawyers sit across the table from variable armies of experts and well resourced international law firms on the other side... There is clearly an imbalance of arms in these situations.”

The Director-General recalled that 47 LDCs have a combined population of almost a billion people and comprise of the poorest populations of the world, in spite of the great potential they possess in terms of human capital and natural resources. “The Initiative being presented today was conceived as an integral part of the effort to help unlock that potential,” she stated. Law alone, she pointed out, is not the answer to all problems of trade and investment in the LDCs; it can however play a significant role.

The Director-General then went on to outline some of the most innovative features of the program: the fact that it had been conceived as a genuine public-private partnership; its design as a “bespoke service,” tailored to meet the specific and diverse needs of LDCs – needs to which the Program, responding to requests from recipient countries would aim to provide “contextually relevant and locally owned responses”; and the intention to ensure that, while seeking to respond to immediate needs, the program, in all its components, would be geared to build and strengthen local capacity and expertise for the longer-term, paying particular attention to supporting businesses owned by women as well as individuals from other marginalized and excluded groups.

She concluded by pointing to a number of key differences in the current situation, as compared to that prevailing in past decades, that augured well for the success of the program: the different environment that now exist for development, with trade and investment currently at the heart of development policy; the fact that the LDCs themselves are aware more than ever before of the need to build legal capacity; a much stronger commitment to sustainable development on the part of the private sector; and, last but not least, the new international consensus that has emerged around the policy framework set in the 2030 Agenda for Sustainable Development. Ultimately, success – she concluded – will depend on all of us working together: “This is a partnership not just of the High Representative’s Office and IDLO; it is a partnership involving the private sector organizations, the law firms, the management consultancies, and other business groups that want to join it. It is also a partnership with the LDCs themselves... This is a long journey on which we are embarking... The 2030 Sustainable Development Agenda is about leaving no one behind. The LDCs cannot be left behind in this; we have to make this journey together.”

An initial list of international legal firms that have expressed interest in partnering with the program was circulated during the meeting.

The high-level segment of the event was followed by two expert panel discussions involving renowned legal experts and practitioners dealing with LDCs’ support requirements in relation respectively to investment negotiations and dispute settlement. The debate and papers submitted by the expert panelists will be published by the United Nations and will feature in a forthcoming website dedicated to the Program.

In their annual ministerial meeting held in the afternoon of September 22, 2017 following this event, LDCs Ministers, in assessing recent developments concerning FDI flows to LDCs, expressed appreciation for the initiative “aiming at providing legal and technical support to LDCs in investment-related negotiations and dispute settlement and at providing the capacity of the investment promotion agencies of LDCs to attract, diversify and retain FDI and derive maximum benefit from it.

SUMMARY OF THE DEBATE

At the opening of the meeting, the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States recalled the crucial catalytic role that FDI plays in enhancing productive capacities and creating jobs and expertise, while at the same time highlighting the concern that they remain concentrated only in a limited number of countries and economic sectors. By helping address the “capacity asymmetry” that currently prevails in the face of increasingly complex investment negotiations, and avoid, in the interest of all, costly international litigation when contractual disputes arise, the new Investment Support Program could make a distinctive contribution to the effort towards larger and more diversified flows across all LDCs and ensure that their benefits are maximized.

The High Representative expressed gratitude to the Government of Italy for its generous financial support of the process of conceptualization of the program that had started at an event during the 2016 Mid-Term Review of the Program of Actions for the LDCs and thanked IDLO for partnering with the United Nations in the program design and for now “taking on responsibility for the program”. “As an intergovernmental organization, she said, “IDLO counts many of the LDCs among its member as well as program countries. Due to its mandate, experience in providing advisory and capacity building services in legal areas central to the key objectives of the program, and its close relationship with the United Nations and commitment to the Sustainable Development Goals, IDLO is especially well placed to undertake this responsibility in an effective and responsive way. We are sure that with the strong leadership of [IDLO Director-General] Ms. Khan and her dedicated staff, the program will be a success. My Office

will continue to support the program in any way we can, including by participating in its Steering Committee.”

Judge Yusuf, Vice President of the International Court of Justice, in his keynote address illustrated the range of challenges that LDCs face in the negotiation and conclusion of investment agreements and in the settlement of disputes, focusing in particular on Bilateral Investment Treaties. He pointed to the position of disadvantage in which LDCs find themselves having often to negotiate on the basis of model agreements placed on the table by the negotiating partner that may contain standards and formulations that have been subject over time to tribunal interpretations of which they may not be aware. The situation, he stated, is beginning to improve with efforts, such as those underway within the Southern Africa Development Community, to develop a model bilateral investment treaty for its members that includes obligations by investors in relation to social, environmental and other standards that are not normally embodied in investors’ model agreements, and with similar work being undertaken in the context of the Common Market for Eastern and Southern Africa Agreement, but strong negotiation imbalances remain. In the same context, he illustrated the LDCs’ position of disadvantage in connection with the proceedings of distant arbitral tribunals with poor representation of arbitrators from developing countries. He concluded by welcoming the ISP initiative, and stressing the importance of a concerted effort towards building and sustaining national capacities. This effort, he felt, would greatly benefit from IDLO’s long and strong record in this regard, and should engage experienced regional training facilities such as the African Institute of International Law that operates in partnership with the African Legal Support Facility of the African Development Bank.

The Director General for International Cooperation and Development of the European Commission, reiterated in his intervention that the needs of the LDCs “remain at the center” of the EU development policy and commitments, and of the vision, rooted in Agenda 2030, embodied in the new European Consensus for Development. He announced the decision to set aside a contribution of 1 million euro in support of the ISP.

“The development narrative and action,” he said, “is shifting progressively towards investment,” adding that “if partner and beneficiary countries are not equipped to define their needs, to protect their interests and to be able to analyze opportunities and risks, [investments] will not allow partners to grow and be stronger in capacity terms. I hope that this consideration can motivate others to join us in supporting financially this operation.” He concluded by announcing that shortly the EU will be equipped with an External Investment Fund which will set up guarantees to cover in full political and commercial risks for private investment, particularly in LDCs. Our goal, he stressed, is to bring private investment precisely where needs are higher and where, in mobilizing private investment, we can also

contribute to a better business and legal environment, in synergy with the host country’s development plan.

The Minister of Planning, Investment and Economic Development for the Federal Republic of Somalia referred to economic development and youth unemployment as “key challenges” to sustaining peace and stability in his country. FDI can be critical to meeting these challenges, he said, but for this benefit to accrue, current imbalances at the negotiating table between investors and recipient country must be addressed and a transparent process must be put in a place that is perceived as fair by all stakeholders in the host country. “When negotiators leave one party at a disadvantage from the outset, stakeholders notice,” he said. This may lead to grievances and possibly even instability that risk negating the benefit of the investment not only for the host country, but also for the investor. As Somalia seeks to rebuild its economy, “we feel that this program is designed for us,” he told the meeting. The Minister concluded by referring to the good partnership already established with IDLO on legal reform and institution building and stating that this initiative would add a new timely dimension to the relationship.

The Minister of Trade, Regional Integration and Employment of the Republic of Gambia also referred to the ISP as a timely initiative that her government warmly welcomed. The program, she said, will help make available the support, expertise and access to institutions that are necessary to level the playing field in contract negotiations and to meet the Gambia’s most pressing needs in its priority investment sectors, which range from energy, oil and gas explorations and mineral mining, to infrastructure development and agriculture. The government’s ambition, she noted, is to “transform the economy into a predominantly service economy and a business hub for the sub-region”. “All sectors are open for investment,” she emphasized. The Minister expressed the hope that the Gambia Investment and Export Promotion Agency, established by Parliament, would be a key beneficiary of the program and urged that capacity development be made central to the program “so that over time our institutions can develop these vital skill sets”. Fair contracts, she stressed, are in the long run in the best interest of all partners. She concluded by saying “we eagerly anticipate the implementation of this program –with capacity building at the heart of it.”

The Representative of Italy, speaking on behalf of the Directorate for Development Cooperation of the Italian Ministry of Foreign Affairs and International Cooperation, expressed satisfaction that the financial contribution of his government had contributed to the launch of what appeared to be a very promising new program for LDCs, aimed at increasing sustainable FDI in the LDCs and for them to derive greater benefits for their people and economies. He recalled that at the 3rd Conference for Financing for Development in Addis Ababa, the international community had recognized that mobilization

of private sector investment, especially FDI, is an essential source for financing sustainable development, and stated that Italy fully shares the vision on these issues that had just been outlined by the Director General for Development Cooperation of the European Commission. He stressed that while FDI flows to LDCs remain very low and are highly concentrated in a few countries and in the mining and oil sectors, they hold great potential as agents of sustainable development. FDI, he noted, can help LDCs' economies diversify, be less dependent on the extractive sector and become more productive, creating jobs and spurring new business ventures at the national and local levels; at the same time, poor regulations and poorly negotiated contracts may lead to loss of public revenues, foster corruption, cause natural resource over-exploitation and environmental and social degradation, and can easily lead to litigation with negative consequences for all the parties involved. Conversely, he stressed, well-crafted contracts are to the advantage of all parties, contribute to upholding the rule of law, and are also less likely to lead to conflict and costly litigation in courts. The same is true for international agreements in areas of investment promotion and protection - the bilateral investment treaties. Hence the importance of providing assistance, training and capacity building to LDCs' governments and companies that may need support to effectively negotiate contracts and agreements. These considerations, together with the fact that the objectives of the program are wholly consistent with Italy's increasing commitment to LDCs' sustainable development in the framework of the 2030 Agenda, were the basic reasons that had led his government to support its launch.

Noting with satisfaction that many law firms had responded very favorably and were ready to put their expertise at the disposal of the LDCs, he expressed confidence that the program would provide a practical contribution to make FDIs work for the sustainable development of the LDCs, and concluded by stating: "Italy will continue to support it. We look forward to other donors participating in its implementation as well as the legal profession and other relevant experts stepping up to make this program a success."

The Director of the Investment Division of the United Nations Conference on Trade and Development (UNCTAD), congratulated the Office of the High Representative and IDLO for launching this new program, which, he said, "fills an important gap" for which there is "large demand". He reviewed past efforts to build a facility to provide advisory services to developing countries in relation to investment negotiations which did not succeed because of the inability to secure sustainable financing as well as constraints arising from the mandates of the sponsoring organization in relation in particular to dispute settlement. The new program, given its focus on the LDCs and on partnership with the private sector, presented promising new features and could count on UNCTAD's close collaboration. Stressing the importance of technical

assistance programs in the investment area to be pursued in context of the broader challenges facing the current international investment regime and of the imperative of its reform to enable it to serve sustainable development objectives, the representative of UNCTAD recalled that 90 per cent of the investment treaties currently in force were entered into in the 1990s and were not as such framed in a sustainable development perspective. Also, over 80 per cent of these treaties do not contain investment facilitation provisions. He noted that, as a contribution to the broader international effort to ensure that the investment regime is truly supportive of the investment development goals, UNCTAD, in its latest World Investment Report, has put forward a number of options for dealing with older generations' treaties, and a proposed policy framework that can assist countries in formulating national and international investment policies to guide their investment negotiations. He regarded these tools as complementary to the new ISP initiative, and expressed the hope that UNCTAD's forthcoming International Investment Treaties Conference would serve to help build consensus towards an investment regime truly supportive of the sustainable development objectives.

Other interventions included statements by:

- › The Secretary General of the Permanent Court of Arbitration who outlined the functions of the Court and the training activities it undertakes both bilaterally and in cooperation with the United Nations and the African Union; and indicated the Court's readiness to support the ISP and pursue discussions with IDLO on specific modalities of cooperation.
- › The Representative of Bangladesh, Head of the Bangladesh Investment Authority, who highlighted the impressive growth that his country's economy continues to undergo, but also the weaknesses it faces in doing business, with regard in particular to "contract enforcement". He referred to tensions in the global trade and investment regime; and expressed appreciation for the ISP as a welcome new instrument in the effort to develop LDCs' capacities in the trade and investment areas both bilaterally and regionally.
- › The Representative of Cambodia, who expressed strong support for the new program, and indicated his country's interest in seeking assistance from the ISP in the context of the processes underway in his country to review its current bilateral investment agreements and of its objective to ensure that such agreements benefit both the host country as well as the investor and avoid, to the extent possible, resorting to arbitration courts.
- › The Representative of Eritrea, who stressed the importance of LDCs making their "voices heard", and expressed the conviction that achieving sustainable development is the result of internal effort anchored on leadership and civil esteem as

well as the maintenance of a conducive investment climate; welcomed the new Investment Support Program along with the establishment and operationalization of the new Technology Bank for LDCs; and called for migrants, irrespective of their status, to have access to financial institutions to pursue investments.

- The Representative of the International Chamber of Commerce, who applauded the launch of the ISP and indicated that she looked forward to working with IDLO and other partners to bring their expertise to bear on the promotion of the initiative.

Summing up the debate, the Director-General of IDLO, Irene Khan, recalled that her organization was born out of the realization of the capacity gap that exists in developing countries on legal issues: established in 1983 as the International Development Law Institute, it became in 1988 a treaty-based intergovernmental organization, as governments realized the importance of investing in law in order to promote development. This realization, she said, and the recognition that law is a critical ingredient for successful trade and investment have now been “codified” in terms of policy in Goal 16 of the 2030 Agenda for Sustainable Development. She went on to recall that, as an organization that works on the ground in a number of LDCs around the world, IDLO has over the years witnessed the imbalance between international investors on the one hand, and governments or private sector entities in those countries on the other: “Whether it is in the context of the extracting industry in Sub-Saharan Africa, or in relation to arbitral proceedings, for example in Asia,” she said, “we have seen a limited number of government lawyers sit across the table from veritable armies of experts and well-resourced international law firms on the other side... There is clearly an imbalance of arms in these situations.”

The 47 LDCs, the Director-General observed, have a combined population of almost a billion people. They comprise the poorest populations of the world, in spite of the great potential they possess in terms of human capital and natural resources. She saw the new initiative as an integral part of the effort to help unlock that potential. Law alone is not the answer to all problems of trade and investment in the LDCs, she added. It can, however, play a significant role. She outlined in this context a number of innovative elements built into the design of the program that had been corroborated by the debate and held promise of making a concrete impact on the needs being addressed.

The first element was that it had been conceived as a genuine public-private partnership. The response received thus far from legal firms and other experts prepared to provide services on a pro bono or reduced fee basis, she stressed, was very heartening in this regard.

A second innovative feature that she projected was that the program had been conceived as a “bespoke service”, tailored to meet the specific needs of LDCs. LDCs, she stressed, are a diverse group - both the legal and the development challenges vary significantly from country to country. The program would aim to work with the recipient countries to design “contextually relevant and locally owned responses”, rather than promoting a cut-and-paste approach based on international best practice that, she said, “may be very convenient, but does not necessarily produce the results”.

She added that across the different dimensions of the program “we must not and will not supplant national capacity, but seek to build it”. “That has to be a key goal,” she stressed, “working together with the countries to strengthen institutions, to strengthen their own capacity, to strengthen their legal profession. If this program is to be sustainable, it must both meet immediate needs, but at the same time also invest for the longer term through capacity development.”

She added that “just as a bird needs two wings to fly, you need to invest in women as well as men when it comes to business, trade and economic development”. The program will therefore pay particular attention to supporting businesses owned by women as well as individuals from other marginalized and excluded groups.

Referring to the UNCTAD representative’s statement, who had recalled that this was not the first time such an effort has been made, she pointed to a number of key differences in the current situation, as compared to past decades. First, as the Director General from the European Commission had mentioned, there was now a different environment for development, where trade and investment are at the heart of development policy. Second, as had been emphasized by many speakers, the LDCs themselves are now acutely aware of the need to build legal capacity. Third, there is now a much stronger commitment from the private sector: “This is not a conflict of interest,” she said. “It is actually a synergy of interests that we see here.” Finally, and perhaps most importantly, there is now a new international consensus around the policy framework set in the 2030 Agenda for Sustainable Development, which creates a very different dynamic than the policy environment that existed in the past. Ultimately, success, she concluded, will depend on all of us working together. “This is a partnership not just of the High Representative’s office and IDLO; it is a partnership involving the private sector organizations, the law firms, the management consultancies, and other business groups that want to join it. It is also a partnership with the LDCs themselves. So in that sense this is a multilateral, private sector and public sector government partnership that we are aiming for... This is a long journey on which we are embarking... The 2030 Sustainable Development Agenda is about leaving no one behind. The LDCs cannot be left behind in this; we have to make this journey together.”

Closing the event, at the end of the panel discussions that followed the high-level part of the meeting, the Director-General thanked UN-OHRLLS along with the governments of the LDCs and of their development partners that had participated so numerously and actively in the meeting; the institutions, particularly UNCTAD and IFAD, that had offered to collaborate with the program, the legal firms and individual experts that had indicated their readiness to lend their legal and professional assistance; and to all those who had shared during the meeting their

experience, knowledge and expertise to contribute to the success of the initiative. She expressed special thanks to the Director-General for Development Cooperation of the European Commission for "giving us fuel to make this journey happen" and appealed to others to also contribute financially and politically to the initiative. She committed to carry forward the program in a wholly transparent and inclusive way as a global endeavor "where knowledge will be shared across regions, across countries and within them" and called on all to "be part of the journey with us".

AGENDA

INVESTMENT SUPPORT PROGRAMME FOR THE LEAST DEVELOPED COUNTRIES

HIGH-LEVEL DIALOGUE ON LEGAL AND EXPERT ASSISTANCE TO MAKE FOREIGN INVESTMENT WORK BETTER FOR THE SUSTAINABLE DEVELOPMENT OF THE LEAST DEVELOPED COUNTRIES

September 22, 2017, 10:00 am - 1:00 pm
Conference Room 2, United Nations
New York, USA

OPENING REMARKS BY THE CO-CHAIRS

- **Fekitamoeloa Katoa 'Utoikamanu**, Under Secretary-General and High Representative for the LDCs, UN-OHRLLS
- **Irene Khan**, Director-General, IDLO

INTRODUCTION

- **Fekitamoeloa Katoa 'Utoikamanu**, Under Secretary-General and High Representative for the LDCs, UN-OHRLLS

KEYNOTE ADDRESS

- **Abdulqawi Ahmed Yusuf**, Vice-President, International Court of Justice: "The challenges for the LDCs in investment related negotiations and settlement"

STATEMENT

- **Stefano Manservigi**, Director-General for International Cooperation and Development, European Commission

ADDRESSES

- **H.E. Jamal Mohamed Hassan**, Minister of Planning, Investment and Economic Development, Federal Republic of Somalia
- **H.E. Dr. Isatou Touray**, Minister of Trade, Regional Integration and Employment, Republic of The Gambia
- **Luigi De Chiara**, Minister Plenipotentiary, Directorate of Development Cooperation, Ministry of Foreign Affairs and International Cooperation of Italy

INTERACTIVE DISCUSSION

- Interventions by High-Level Representatives from the LDCs and Development Partners

CONCLUDING REMARKS

- **Irene Khan**, Director-General, IDLO

PANEL 1: THE LDCs AND MEETING THE CHALLENGES OF INVESTMENT NEGOTIATIONS

Moderated by **Hassan Cisse**, Member of IDLO Board of Advisors and former Director, Governance and Inclusive Institutions, Governance Global Practice, World Bank

- **Surya Subedi**, University of Leeds: "The art of negotiating investment treaties and investment contracts in a changing world of international investment law"
- **Mamadou Hebié**, University of Leiden: "Negotiations and the creation of legitimate expectations for investors"
- **Paolo di Rosa**, Arnold & Porter Kaye Scholer: "Dispute resolution clauses in investment agreements"
- **Kyi Kyi Than Aung**, Director of the Commercial Contracts Division, Union Attorney General's Office, Myanmar: "The challenges of investment negotiations for small economies: the case of Myanmar"

PANEL 2: HOW TO SUPPORT LDCs IN INVESTMENT ARBITRATION?

Moderated by **Hassan Cisse**, Member of IDLO Board of Advisors and former Director, Governance and Inclusive Institutions, Governance Global Practice, World Bank

- **Grant Hanessian and Kabir Duggal**, Baker and McKenzie: “The challenges of investment arbitration for the LDCs: a review of the case law”
- **Won Kindane**, Seattle University Law School: “LDCs unique challenge of getting the composition of arbitrators in investor-state arbitration right”
- **Maria B. Deli**, Italian Association for Arbitration: “ADR and LDCs: when the alternative methods become real and effective”
- **Robert Howse**, New York University Law School: “Settlement negotiations”

CLOSING

- **Irene Khan**, Director-General, IDLO